

**DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA**

\*\*\*\*\*

**IN THE MATTER OF** the Application of )  
**UTILITY SOLUTIONS, LLC** to )  
Implement Initial Rates and Charges )  
for Water Services in its Elk Grove )  
Subdivision, Gallatin County, Montana )  
Service Area )

**UTILITY DIVISION**

**DOCKET NO. D2005.11.163**

**Consolidated with**

**IN THE MATTER OF** the Application of )  
**UTILITY SOLUTIONS, LLC** to )  
Implement Initial Rates and Charges )  
for Wastewater Services in its Elk )  
Grove Subdivision, Gallatin County, )  
Montana Service Area )

**UTILITY DIVISION**

**DOCKET NO. D2005.11.164**

**MOTION FOR INTERIM RATE RELIEF**

Utility Solutions, LLC, the Applicant in these consolidated dockets, respectfully moves the Commission for interim rate relief as described in this motion. Utility Solutions integrates with its motion its brief in support of the motion.

**FACTS**

The following facts are uncontested, and form the basis for this motion for interim rate relief.

These consolidated dockets were instituted nearly four and a half years ago to establish initial rates for water and waste water service provided by Utility Solutions to the Elk Grove subdivisions in the Four Corners area southwest of Bozeman. Utility Solutions made its first filing for initial rates on October 27, 2005. As is usually the case with a filing for initial rates, there was insufficient accounting information upon which to make a traditional cost of service presentation using a historic test period. Accordingly, the filing was based upon a mix of accounting data and cost estimates. The October 27, 2005,

filings set forth estimated annual revenue requirements of \$163,978 for water service, and \$199,187 for waste water service.

On January 13, 2006, the Commission issued its Interim Orders 6707 and 6708 in the two dockets. Consistent with the fact the dockets involved applications for initial rates, the Commission's Interim Orders required Utility Solutions to make subsequent rate filings for permanent rates based upon a full year of operation under the interim rates. Utility Solutions made compliant filings on August 12, 2007. It made an amended filing on June 30, 2009.<sup>1</sup> They presented annual revenue requirements of \$327,499 for water service and \$356,305 for waste water service.

The Montana Consumer Counsel (MCC) intervened in this docket. Along with the Staff of the Commission, it both engaged in formal discovery and conducted an on-site audit of the books and records of Utility Solutions. On December 23, 2009, the MCC filed the testimony of its expert witness, Mr. Paul Schulz. As presented in his expert testimony, the MCC determined that Utility Solutions was entitled to permanent rates that would generate annual revenues of \$238,077 for water service, and \$251,877 for waste water service.

Utility Solutions and the MCC have entered into, and filed with the Commission, a Stipulation proposing permanent rates for the Commission's consideration. The Stipulation incorporated the revenue requirements determined by MCC witness Schulz for both water and waste water service. Paragraph 13 of the Stipulation provides as follows:

During the pendency of this proceeding, the Commission should be moved, in its discretion, to grant Utility Solutions interim rate relief at the same level and in the same fashion as is set forth in the tariffs attached as Appendix 1.

The proposed tariffs attached as Appendix 1 to the Stipulation are designed to raise the

---

<sup>1</sup>The untimely and tragic death of Utility Solution's retained consultant, and expert witness, resulted in a sequence of events which resulted in the June 30, 2009, filing, using an historic test year ended December 31, 2008.

annual revenue requirements of \$238,077 for water service, and \$251,877 for waste water service determined by MCC witness Schulz in his pre-filed testimony (Stipulated Rates). Utility Solutions seeks interim rate relief in same amounts as the MCC determined were appropriate for permanent rates.

### **ARGUMENT**

The decision to grant or deny interim rate relief is a matter vested within the soundly exercised discretion of the Commission. Section 69-3-304 of the Montana Code Annotated. In this case, and at this time, the soundly exercised discretion of the Commission should favor granting interim rate relief as requested in this motion.

Although the Commission is not bound by the Stipulation executed and filed by Utility Solutions and the MCC in these consolidated dockets, the Stipulation represents a reasonable final outcome in this case. The Stipulation proposes permanent rates based upon the written advocacy of the MCC, the representative of the consuming public in these dockets. Section 69-2-102, MCA. The revenue requirements developed by the MCC, and captured in the Stipulation, reflect the hard work of that office in conducting formal discovery, doing an on-site audit, and preparing and filing expert testimony.

Utility Solutions filed is amended applications for permanent water and waste water rates on June 30, 2009. The so-called nine month statute applicable to the filings is tolled on March 31, 2010. Section 69-3-302(2), MCA. After that date, Utility Solutions can elect to self- implement its "as filed rates," subject to refund, pending the Commission's final decision in this case. *Id.* This matter is currently set for hearing on April 7, 2010, and it is not known when the Commission expects to issue a final order. If the Commission is moved in its discretion to expeditiously grant the interim rate relief sought in this motion, Utility Solutions will not have to invoke the protections afforded by Section 69-3-302(2), MCA, and the statute provisions become unimportant.

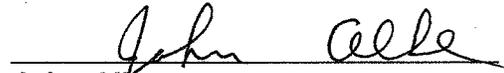
**CONCLUSION**

Based upon the foregoing facts and law, Utility Solutions respectfully requests that the Commission grant the reasonable interim rate relief requested in this motion.

Dated this 3rd day of March, 2010.

**HUGHES, KELLNER, SULLIVAN & ALKE**

By



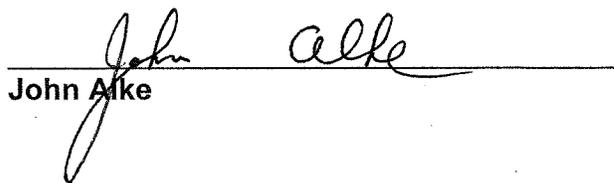
**John Alke**  
40 W. Lawrence, Suite A  
P. O. Box 1166  
Helena, MT 59624-1166

**ATTORNEYS FOR UTILITY SOLUTIONS, LLC**

**CERTIFICATE OF SERVICE BY MAIL**

**I HEREBY CERTIFY** that a copy of the foregoing **MOTION FOR INTERIM RATE RELIEF** was served upon the following by mailing a true and correct copy thereof on **March 3, 2010**, addressed as follows:

**MONTANA CONSUMER COUNSEL  
P O BOX 201703  
HELENA MT 59620-1703**



**John Alke**